

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of	)	
	)	
Technology Transitions Policy	)	GN Docket No. 13-5
Task Force Seeks Comment on	)	
Potential Trials	)	
	)	

**REPLY COMMENTS OF THE LIFELINE REFORM 2.0 COALITION**

The Lifeline Reform 2.0 Coalition (“Coalition”),<sup>1</sup> by and through their undersigned counsel, respectfully submit these reply comments in response to the Technology Transitions Policy Task Force *Public Notice* seeking comment on potential trials,<sup>2</sup> including a possible trial focusing on services for low-income Americans and the Lifeline program.<sup>3</sup> Specifically, for the reasons explained below, the Coalition opposes AT&T’s proposal to conduct a Lifeline trial.

In its voluminous comments primarily addressing IP networks, AT&T adds that it would support targeted Lifeline trials provided they do not impede progress on Lifeline reform.<sup>4</sup> AT&T also takes the opportunity to reiterate its support for removing ETC status as a prerequisite to provide Lifeline universal service, this time in the form of a proposed trial that would require low-income consumers to obtain an e-voucher from the Universal Service

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<sup>1</sup> The Coalition is comprised of Blue Jay Wireless, LLC; Boomerang Wireless, LLC; Global Connection of America Inc.; i-wireless LLC and Telrite Corporation.

<sup>2</sup> See Technology Transitions Policy Task Force, GN Docket No. 13-5, Public Notice, DA 13-1016 (rel. May 10, 2013) (“Public Notice”).

<sup>3</sup> The members of the Coalition are competitive eligible telecommunications carriers (“ETCs”) that provide wireless service to eligible low-income consumers in numerous states.

<sup>4</sup> See Comments of AT&T, GN Docket No. 13-5 at 34 (July 8, 2013) (“AT&T Comments”).

Administrative Company (“USAC”) or some other authority that the consumer could then take to any telecommunications carrier.<sup>5</sup> Developing and implementing a Lifeline trial would impede progress on Lifeline reform because it would distract the efforts of the Wireline Competition Bureau (“Bureau”) and USAC from implementing current Lifeline reforms, most importantly the national duplicates and eligibility databases. In addition, the Coalition members support releasing AT&T and other incumbent LEC ETCs from the obligation to provide Lifeline service if they are not the only service provider and they are not interested in serving the Lifeline eligible customer base.<sup>6</sup> In most areas there are plenty of ETCs or pending ETCs that focus on the low-income market and would seek to serve those customers. However, there is still good reason to maintain the structure of requiring ETC status to receive universal service funding and provide service to eligible consumers.

**I. Conducting a Lifeline Trial Would be Expensive and Time-Consuming, and Would Distract the Bureau and USAC From Implementing Current Reforms and Establishing Required Duplicates and Eligibility Databases**

In its comments, AT&T states that it would support targeted trials on Lifeline, but hedges its support with the caveat that the trial not “impede further progress on Lifeline reform.”<sup>7</sup> AT&T also notes that, “the Commission could improve the Lifeline program today without having to conduct any trials.”<sup>8</sup> AT&T’s concern about distracting the Bureau and USAC is well-founded and its statement that the Commission can improve the Lifeline program through the existing Lifeline proceeding is spot on.

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<sup>5</sup> See *id.* at 36-37.

<sup>6</sup> See Comments of the Joint Commenters, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 at 13-14 (Apr. 2, 2012) (“Lifeline FNPRM Joint Comments”).

<sup>7</sup> AT&T Comments at 34.

<sup>8</sup> *Id.*

Requiring the Bureau and USAC to take time, effort and funding away from implementing the 2012 *Lifeline Reform Order*, including developing and implementing the National Lifeline Accountability Database (“NLAD”) and national eligibility database<sup>9</sup> would be unwise and would ultimately harm the Lifeline program. The single most important reform contained in the *Lifeline Reform Order* was the requirement that the Bureau and USAC develop and implement national duplicates and eligibility databases. In June, USAC announced that it is close to an initial implementation of the NLAD in five states at the end of this year, with further roll-out in 2014.<sup>10</sup> The Bureau and USAC are busy conducting necessary workshops and meetings with industry to improve the NLAD and avoid unintended difficulties and problems in implementation.<sup>11</sup>

In the *Further Notice of Proposed Rulemaking* released with the *Lifeline Reform Order* in 2012, the Commission sought comment on whether it should implement an interim, non-electronic means of checking eligibility by a third party administrator.<sup>12</sup> Members of the Coalition and others opposed that proposal on the grounds that it would distract from developing

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<sup>9</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶¶ 179-209, 399-415 (Feb. 6, 2012) (“*Lifeline Reform Order*”). The NLAD was to be operational by February, 2013 and the eligibility database is supposed to be in place by the end of 2013.

<sup>10</sup> See USAC Webinar Training, The Lifeline Program: National Lifeline Accountability Database (June 19, 2013), available at [http://usac.org/res/flash/li/online-learning/nlad/data/downloads/national%20lifeline%20accountability%20database%20webinar%20\(june%202013\).pdf](http://usac.org/res/flash/li/online-learning/nlad/data/downloads/national%20lifeline%20accountability%20database%20webinar%20(june%202013).pdf).

<sup>11</sup> See Notice of *Ex Parte* of Telrite Corporation and i-wireless LLC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45 (July 26, 2013). In its “spare” time, the Bureau should be focused on reviewing and acting on petitions for ETC status in the federal jurisdiction states, where there is a noticeable lack of competition due to the Commission’s failure to approve ETC petitions.

<sup>12</sup> See *Lifeline Reform Order*, ¶ 414.

and implementing the electronic databases.<sup>13</sup> The Coalition continues to believe that the databases should be the primary focus of Lifeline reform, and Bureau and USAC should not be distracted from database implementation by a requirement to develop and implement an e-voucher trial that they would not likely be able to successfully administer without enormous human and capital investments.

Further, the Coalition agrees with AT&T that the Commission can improve the Lifeline program by taking further action pursuant to its open rulemaking proceeding. For example, the Coalition agrees with AT&T on many of the proposed reforms, including allowing ILEC ETCs like AT&T to leave the Lifeline business to those ETCs, such as the Coalition members, that have a business model focused on low-income consumers and designed to meet their needs.<sup>14</sup> We also agree with AT&T that Lifeline resale should not be required and that the ETC receiving the Lifeline reimbursement should have the direct relationship with the eligible consumer.<sup>15</sup>

In addition to the reforms proposed in the *Further Notice of Proposed Rulemaking*, the Coalition has proposed several additional reforms that would combat waste, fraud and abuse in the Lifeline program, including requiring that ETCs retain documentation of eligibility for audit purposes and to combat negative news story allegations.<sup>16</sup> The Commission and the Bureau have many proposals that they can consider to further improve the Lifeline program. Designing, developing and implementing an e-voucher trial would be a much more time and resource intensive endeavor that would likely not result in any improvements to the

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<sup>13</sup> See Reply Comments of the Joint Commenters, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45 at 8-9 (May 1, 2012).

<sup>14</sup> See Lifeline FNPRM Joint Comments at 13-14.

<sup>15</sup> See *id.*

<sup>16</sup> See Lifeline Reform 2.0 Coalition Petition for Rulemaking, WC Docket No. 11-42 (filed June 28, 2013).

program and may indeed create unanticipated new problems for consumers. Although there have been substantial savings in the Lifeline program since last year's reforms,<sup>17</sup> those savings should be used to implement database solutions, support the broadband pilot program, and to support more robust program participation levels.

## **II. There Are Important Reasons to Require Carriers to Obtain ETC Status to Receive Universal Service Support and Serve Eligible Low-Income Customers**

As part of a Lifeline trial, AT&T proposes to remove the ETC designation process and controls from the provision of Lifeline service by allowing low-income consumers to obtain an e-voucher from USAC or some other agency and presenting it to any participating provider carrier for a discount on supported services.<sup>18</sup> In support of its argument to separate Lifeline from the statutory ETC requirement, AT&T argues that Section 254(j) allows the Commission to except the Lifeline program from the ETC requirement<sup>19</sup> and notes that the Lifeline program existed prior to the Telecommunications Act of 1996 ("1996 Act") and its statutory universal service obligations.<sup>20</sup> Although the Coalition agrees that not all ETCs should be required to provide Lifeline service, there are important reasons to require that a carrier be designated as an ETC to provide Lifeline service.

The Communications Act of 1934, as Amended by the 1996 Act ("Act") clearly contemplates receipt of universal service support only by ETCs and the Commission has

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<sup>17</sup> See *FCC Reports: Major Reforms to Lifeline Program on Track to Cut at Least an Additional \$400 Million in Waste, Fraud, and Abuse in 2013; Reforms on Schedule to Save More than \$2 Billion by End of 2014*, News Release (rel, Feb, 12, 2013).

<sup>18</sup> See AT&T Comments at 36.

<sup>19</sup> Section 254(j) states, "Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title." 47 U.S.C. § 254(j).

<sup>20</sup> See Comments of AT&T, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45 at 19-22 (filed Apr. 2, 2012).

extended those requirements to its Lifeline program for good reason. Section 214(e)(1) of the Act states that, “A common carrier designated as an eligible telecommunications carrier...shall be eligible to receive universal service support in accordance with section 254 of this title....”<sup>21</sup> Section 254(e) states, “After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support.”<sup>22</sup>

In its *USF First Report and Order*, the Commission made the reasoned determination to conform the existing Lifeline program with the new universal service principles established pursuant to Sections 214 and 254 of the Act and its funding mechanisms.<sup>23</sup> The Commission’s interpretation of Section 254(j) was that it allowed the Commission the flexibility not to change the existing Lifeline program, but “Congress did not intend...to prevent the Commission from making changes to Lifeline that are sensible and clearly in the public interest.”<sup>24</sup> Therefore, the Commission decided to include Lifeline in the larger Universal Service Fund and stated, “we make changes to the Lifeline program that we believe are necessary, are in the public interest, and advance universal service.”<sup>25</sup>

Further, the Commission previously considered and rejected a proposal that all carriers, not just ETCs, be able to participate in Lifeline, which is essentially AT&T’s current proposal. Although, the Commission determined that it had such authority, it declined to provide Lifeline support outside the structure established by the ETC designation process,

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<sup>21</sup> 47 U.S.C. § 214(e)(1).

<sup>22</sup> 47 U.S.C. § 254(e).

<sup>23</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, ¶¶ 408-9 (1997) (*USF First Report and Order*).

<sup>24</sup> *Id.*, ¶339.

<sup>25</sup> *Id.*, 340.

*We believe that a single support mechanism with a single administrator following similar rules will have significant advantages in terms of administrative convenience and efficiency.* Furthermore, in deciding which carriers may participate in Lifeline, we note that section 254(e) allows universal service support to be provided only to carriers deemed eligible pursuant to section 214(e).<sup>26</sup>

The Commission's reasoning remains valid today. It would not be efficient or convenient to spend universal service funds to develop a Lifeline e-voucher process that would be difficult or impossible to develop and administer. The Commission and USAC have no successful experience with efficiently issuing e-vouchers and low-income consumers do not have ready access to websites, electronic mail or other means of receiving and producing an e-voucher to a "Lifeline service provider" to receive discounted service. Further, the administering agency would have to address the substantial risk that some consumers, service providers or others will engage in counterfeiting electronic vouchers to be used by those that are not eligible or reselling legitimate electronic vouchers to others on the black market.

In addition, the ETC designation process contains important review processes by either the states or the Commission. The process includes a review of financial and technical capabilities, 911 and E911 requirements and a consumer protection demonstration. In this manner, a carrier must be fully vetted by the Commission or a state in order to provide supported services and receive reimbursements from the Fund. In addition, if an ETC fails to adequately provide the supported services or comply with the myriad of compliance obligations, the states or the Commission can readily locate the ETC from its dockets of approved carriers, investigate and potentially compel compliance with the applicable requirements. It is not clear that the states would have any authority over "participating Lifeline providers" divorced from the ETC designation process.

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<sup>26</sup> *Id.*, 369.

Finally, currently ETCs must expend substantial resources to verify and annually re-certify low-income consumers' eligibility for Lifeline service, as well as educate low-income consumers about the Lifeline program and its benefits. AT&T's proposal would largely shift the burden for this process to USAC or another government agency, which would involve substantial new administration costs. If the agency did not have an incentive to properly reach out to eligible consumers and review and determine eligibility, which has been the case for many state eligibility databases, many eligible consumers would go unserved. For all of the above reasons, the Commission's determination to include Lifeline in the universal service structure established by the 1996 Act and require that a carrier be designated as an ETC to receive low-income universal service support remains valid.



### III. Conclusion

For the reasons outlined above, the Coalition urges the Task Force not to distract the Bureau and USAC from implementing important existing Lifeline reforms with an expensive and ill-advised Lifeline trial that would not be administrable for the low-income market. Further, the Commission's requirement that Lifeline support recipients complete the ETC designation process remains necessary and beneficial to the program.

By:



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August 7, 2013